



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket no. 230331-0089]

RTID 0648-XD042

Pacific Halibut Fisheries of the West Coast; Catch Sharing Plan; Inseason Action

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS announces inseason actions for certain subareas in the Pacific halibut recreational fishery in the International Pacific Halibut Commission's regulatory Area 2A off Washington, Oregon, and California. Specifically, this action increases the bag limit from one to two fish per day in the Oregon Central Coast and Southern Oregon subareas starting June 12. It also adds the season dates of June 9, 11, 16, 18, 23, 25, and 30 for the Washington North Coast subarea and June 13 and 20 for the Columbia River subarea. This action is intended to conserve Pacific halibut and provide angler opportunity where available.

DATES: *Effective date:* June 2, 2023, through October 31, 2023.

Comment date: Comments due on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by NOAA-NMFS-2023-0128, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2023-0128 in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Jennifer Quan, Regional Administrator, c/o Katie Davis, West Coast Region, NMFS, 500 W Ocean Blvd., Long Beach, CA 90802.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post them for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Docket: This rule is accessible via the Internet at the Office of the Federal Register website at *https://www.federalregister.gov/*. Background information and documents are available at the NOAA Fisheries website at *https://www.fisheries.noaa.gov/action/2023-pacific-halibut-recreational-fishery* and at the Council's website at *http://www.pcouncil.org*. Other comments received may be accessed through *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Katie Davis, phone: 323-372-2126 or e-mail: *katie.davis@noaa.gov*.

SUPPLEMENTARY INFORMATION: On April 11, 2023, NMFS published a final rule approving changes to the Pacific halibut Area 2A Catch Sharing Plan and implementing recreational (sport) management measures for 2023 (88 FR 21503), as authorized by the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773-773(k)). The Pacific Fishery Management Council (Council) 2023 Catch Sharing Plan provides a recommended framework for NMFS' annual management measures and subarea allocations based on the 2023 Area 2A Pacific halibut catch limit of 1,520,000 pounds

(lb) (689 metric tons (mt)) set by the International Pacific Halibut Commission (IPHC). The Area 2A catch limit and commercial fishery allocations were adopted by the IPHC and were published in the **Federal Register** on March 7, 2023 (88 FR 14066) after acceptance by the Secretary of State, with concurrence from the Secretary of Commerce, in accordance with 50 CFR 300.62. The Area 2A Pacific halibut management measures include recreational fishery season dates, bag limits, and subarea allocations.

Federal regulations at 50 CFR 300.63(c)(6), “Inseason Management for Recreational (Sport) Halibut Fisheries in Area 2A.,” allow the NMFS Regional Administrator to modify annual regulations during the season. These inseason provisions allow the Regional Administrator to modify recreational (sport) fishing periods, bag limits, size limits, days per calendar week, and subarea quotas, if it is determined it is necessary to meet the allocation objectives and the action will not result in exceeding the catch limit.

NMFS has determined that, due to lower than expected landings in the Central Oregon Coast and Southern Oregon subareas, the Washington North Coast subarea, and the Columbia River subarea, inseason action to modify the 2023 annual regulations for the recreational fishery is warranted at this time to provide additional opportunity for fishery participants to achieve the Area 2A subarea allocations. As stated above, inseason modification of fishing season dates and bag limits is authorized by Federal regulations at 50 CFR 300.63(c)(6). After consulting with the IPHC, the Council, the Washington Department of Fish and Wildlife (WDFW), and the Oregon Department of Fish and Wildlife (ODFW), NMFS determined the following inseason actions are necessary to meet the management objective of attaining subarea allocations, will not result in exceeding any subarea allocations, and are consistent with the inseason management provisions allowing for the modification of recreational fishing periods, recreational fishing days per calendar week, and fishing bag limits. Notice of these

additional dates and increased bag limits will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

Inseason Action

Oregon Central Coast and Southern Oregon subareas

Description of the action: This inseason action implements an increase in the bag limit from one fish per day, to two fish per day in the Oregon Central Coast and Southern Oregon subareas for the remainder of the 2023 recreational fishery.

Reason for the action: The purpose of this inseason action is to provide additional opportunity for anglers in the Oregon Central Coast and Southern Oregon subareas. The recreational fishery in these subareas opened on May 1, 2023. NMFS has determined an increased bag limit is warranted due to lower than expected landings through May 19, 2023, and the expectation that a substantial amount of the Oregon combined allocation will go unharvested without increased bag limits. As of May 13, anglers in the Oregon Central Coast and Southern Oregon subareas have harvested 27,837 lb (12.63 mt) of the 293,436 lb (133.10 mt) allocation (9 percent), leaving 265,599 lb (120.47 mt) remaining (91 percent of the subarea allocation). Without the increased bag limits in this action, the bag limits implemented in the April 11, 2023 (88 FR 21503, April 11, 2023) final rule would likely result in substantial unharvested allocation in the combined Oregon Central Coast and Southern Oregon subareas. The Catch Sharing Plan stipulates that “if the Central Oregon Coast Subarea allocation (all-depth and nearshore combined) is 200,000 pounds or greater, the daily bag limit may be increased to two fish per day, based on consultation between ODFW, NMFS, IPHC, and PFMC with the intent of taking the entire subarea allocation by September 30.” The Catch Sharing Plan also specifies that when the bag limit for the Oregon Central Coast subarea is increased from one to two fish, the bag limit for the Southern Oregon subarea is also increased.

After consulting with ODFW, it was determined that in order for anglers to have the opportunity to achieve the combined Oregon Central Coast and Southern Oregon subarea allocations, with little risk of the subareas or coastwide allocation being exceeded, increased bag limits are warranted for participants in these two Oregon subareas. Therefore, through this action, NMFS is announcing higher bag limits than those previously implemented in the final rule on April 11, 2023 (88 FR 21503, April 11, 2023). Specifically, the bag limits are increased for the Oregon Central Coast and Southern Oregon subareas from one fish to two fish per day.

Notice of these increased bag limits will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

Washington North Coast subarea

Description of the action: This inseason action implements seven additional fishing dates for the Washington North Coast subarea during the 2023 recreational fishery.

Reason for the action: The purpose of this inseason action is to provide additional opportunity for anglers in the Washington North Coast subarea by opening the fishery on June 9, 11, 16, 18, 23, 25, and 30. The recreational fishery in this subarea opened on May 4, 2023. NMFS has determined that these additional dates are warranted due to lower than expected landings through May 19, 2023, and the expectation that a substantial amount of subarea allocation will go unharvested without additional fishing dates. Fishing dates were set with the expectation that effort would return to pre-pandemic levels and with the intention of attaining most of the allocation before the end of June, with some allocation left for late summer opportunity. However, effort has not returned to pre-pandemic levels, likely due to high fuel prices and the resulting high cost of driving to remote port locations in the North Coast subarea as well as high vessel fuel prices, as well as reports of lower catch per unit effort (CPUE) and smaller halibut. As of

May 14, anglers in the Washington North Coast subarea have harvested 15,217 lb (6.90 mt) of the 129,668 lb (58.82 mt) allocation (12 percent), leaving 114,451 lb (51.92 mt) remaining (88 percent of the subarea allocation). Without the additional dates in this action, the dates implemented in the final rule on April 11, 2023 (88 FR 21503, April 11, 2023) would likely result in substantial unharvested allocation in the Washington North Coast subarea.

After consulting with WDFW, it was determined that in order for anglers to have the opportunity to achieve Washington recreational allocation, with little risk of subarea or coastwide allocations being exceeded, additional season dates are warranted for participants in the Washington North Coast subareas. Therefore, through this action, NMFS is announcing additional season dates in June that were not previously implemented in the final rule on April 11, 2023 (88 FR 21503, April 11, 2023).

Specifically, the additional season dates for the Washington North Coast subarea are June 9, 11, 16, 18, 23, 25, and 30.

Notice of these additional dates will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

Columbia River subarea

Description of the action: This inseason action implements two additional fishing dates for the Columbia River subarea during the 2023 recreational fishery.

Reason for the action: The purpose of this inseason action is to provide additional opportunity for anglers in the Columbia River subarea by opening the fishery on June 13 and 20. The recreational fishery in this subarea opened on May 4, 2023. NMFS has determined that these additional dates are warranted due to lower than expected landings through May 19, 2023. Fishing dates were set with the expectation that effort would return to pre-pandemic levels and with the intention of reaching the allocation before the end of June. However, effort has not returned to pre-pandemic

levels, likely due to high vessel fuel prices, as well as reports of lower CPUE and smaller halibut. As of May 14, anglers in the Columbia River subarea have harvested 4,791 lb (2.17 mt) of the 18,875 lb (8.56 mt) allocation (25 percent), leaving 13,700 lb (6.21 mt) remaining (75 percent of the subarea allocation). Without the additional dates in this action, the dates implemented in the April 11, 2023 (88 FR 21503, April 11, 2023) final rule would likely result in unharvested allocation in the Columbia River subarea.

After consulting with WDFW and ODFW, it was determined that in order for anglers to have the opportunity to achieve Columbia River recreational allocation by the end of June, with little risk of subarea or coastwide allocations being exceeded, additional season dates are warranted for participants in the Columbia River subareas. Therefore, through this action NMFS is announcing new season dates in June that were not previously implemented in the April 11, 2023, final rule (88 FR 21503, April 11, 2023). Specifically, the additional season dates for the Columbia River subarea are June 13 and 20.

Notice of these additional dates will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

Weekly catch monitoring reports for the recreational fisheries in Washington, Oregon, and California are available on their respective state Fish and Wildlife agency websites. NMFS and the IPHC will continue to monitor recreational catch obtained via state sampling procedures until NMFS has determined there is not sufficient allocation for another full day of fishing, and the area is closed by the IPHC, or the season closes on September 30 in Washington and the Columbia River subarea or October 31 in Oregon, whichever is earlier.

Classification

NMFS issues this action pursuant to the Northern Pacific Halibut Act of 1982.

This action is taken under the regulatory authority at 50 CFR 300.63(c)(6), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(3)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. ODFW and WDFW provided updated landings data to NMFS on May 19, 2023, showing that the fishery participants in the recreational fishery off of Oregon had caught only 9 percent of Central Coast and Southern subarea combined allocations, fishery participants in the recreational fishery off of Washington had caught only 12 percent of the North Coast subarea allocation, and fishery participants in the Columbia River subarea had caught only 25 percent of the subarea allocation. NMFS uses fishing rates from previous years to determine the number of recreational fishing dates needed to attain subarea allocations. Given the lower than expected catch rates in the Oregon Central Coast and the Southern Oregon subareas, the Washington North Coast subarea, and the Columbia River subarea, increased bag limits in the Oregon Central Coast and Southern Oregon subareas, and additional dates in the Washington North Coast subarea and the Columbia River subarea are considered necessary to increase angler opportunity to reach the overall Oregon and Washington subarea allocations. This action should be implemented as soon as possible to allow fishery participants to take advantage of the increased bag limits in the Oregon subareas prior to the end of the season and to plan for additional season dates in the Washington and Columbia River subareas. As the fisheries close on October 31, 2023 in Oregon and on September 30, 2023 in Washington and the Columbia River subareas, implementing this action through proposed and final rulemaking would limit the benefit this action would provide to fishery participants. Without implementation of increased bag limits in Oregon and additional season dates in Washington and the Columbia River subarea, the

overall Oregon and Washington allocations are unlikely to be harvested, limiting economic benefits to the participants and not meeting the goals of the Catch Sharing Plan. It is necessary that this rulemaking be implemented in a timely manner so that planning for increased bag limits and additional season dates can take place, and for business and personal decision making by the regulated public impacted by this action, which includes recreational charter fishing operations, associated port businesses, and private anglers who do not live near the coastal access points for this fishery, among others. To ensure the regulated public is fully aware of this action, notice of this regulatory action will also be provided to anglers through a telephone hotline, news release, and by the relevant state fish and wildlife agencies. NMFS will receive public comments for 15 days after publication of this action, in accordance with 50 CFR 300.63(c)(6)(iv). No aspect of this action is controversial, and changes of this nature were anticipated in the process described in regulations at 50 CFR 300.63(c).

For the reasons discussed above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make this action effective immediately upon filing for public inspection, as a delay in effectiveness of this action would constrain fishing opportunity and be inconsistent with the goals of the Catch Sharing Plan, as well as potentially limit the economic opportunity intended by this rule to the associated fishing communities. This inseason action is not expected to result in exceeding the allocation for these subareas. NMFS regulations allow the Regional Administrator to modify sport fishing periods, bag limits, size limits, days per calendar week, and subarea allocations, provided that the action allows allocation objectives to be met and will not result in exceeding the catch limit for the subarea. NMFS recently received information on the progress of landings in the recreational fisheries in Oregon and Washington subareas, indicating an increase in bag limits for Oregon and additional season dates for Washington should be implemented in the fishery to ensure optimal and

sustainable harvest of the subarea allocations. As stated above, it is in the public interest that this action is not delayed, because a delay in the effectiveness of these new dates would not allow the allocation objectives of the recreational Pacific halibut fishery to be met.

Authority: 16 U.S.C. 773-773k.

Dated: June 1, 2023.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

[FR Doc. 2023-12071 Filed: 6/2/2023 8:45 am; Publication Date: 6/6/2023]